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January 31, 2000

Mr. David S. Guzy, Chief
Rules and Publications Staff,
Royalty Management Program,
Minerals Management Service
P.O. Box 25165, M.S. 3021
Denver, Colorado 80225-0165

**Transmitted by FAX (303)-231-3385 and mail.**

Dear Mr. Guzy:

**This letter provides brief additional comments from the New Mexico State Land Office (NMSLO) in response to the December 30, 1999, Federal Register Notice of a Further Supplementary Proposed Rule "Establishing Oil Value for Royalty Due on Federal Leases."** We understand that new comments can be made through January 31, 2000, and that we are not required to resubmit all our previous comments on prior and current versions of this proposed rule since they are already included in the rulemaking record.

The NMSLO again commends the MMS for pursuing its proposed oil valuation regulations through a very thorough public and industry input process. We look forward to information from MMS concerning the latest round of public workshops to receive comments on this latest proposed rule, held during January in Houston, Texas, Lakewood, Colorado, and Washington, D.C.

At this time, the NMSLO is providing comments on two new proposals which MMS has incorporated in its 12/30/99 published rule:

1. We support the proposed language regarding MMS's intent not to "second guess" industry marketing decisions, found in paragraph 206.102(c)(2)(ii)(A) and (B), on page 73844 of the Federal Register. We understand this to be an attempt by MMS to respond positively to strong industry input on this topic, and we hope that industry comments support this language.

2. We are concerned and puzzled by the proposed language regarding Transportation Allowance under a non-arm's-length transportation arrangement [found at paragraph 206.111(g)(3) on page 73847 of the Federal Register] which would allow a lessee to continue to take an annual rate of return allowance on an initial investment even after a transportation system has been depreciated below a value equal to ten percent of the original capital investment. The ongoing allowance would be equal to ten percent of the initial capital investment in the transportation system multiplied by a rate of return valued at the industrial bond yield index for Standard and Poor's BBB rating [see paragraph 206.111(h) on page 73847]. We are under the impression that this new proposal has been developed based on arguments suggesting that such an approach is modeled on treatment of investments for regulated (monopoly) public utilities. We are not initially convinced that such an approach is appropriate for the oil industry. In addition, it appears that the application of this new, ongoing return "on investment" (as opposed to depreciation which allows a return "of investment") would be borne solely by the federal royalty owner and the royalty-share states. We repeat that we are puzzled by this new approach by MMS, and are very interested in the public comments you may have received in this regard.

We appreciate this opportunity to comment on your proposed oil valuation regulations, and (with the reservations indicated in item 2 above) we hope that MMS will now be able to move toward promulgation of a final rule.

The New Mexico State Land Office works primarily for education through our various educational beneficiaries. We continue to stress that finalization of the federal oil valuation regulations and any increases in crude oil revenues which would result from revised oil valuation methodologies would directly benefit education funding in this state.

Sincerely,

Lawrence Kehoe,
Assistant Commissioner for Mineral Resources
New Mexico State Land Office